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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/571,724

04/30/2007

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AG013

2841

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01/12/2009

EXAMINER

ROCCA, JOSEPH M

ART UNIT

PAPER NUMBER

3616

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DELIVERY MODE

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/571,724	<b>Applicant(s)</b> ILIAS ET AL.	
	<b>Examiner</b> JOSEPH ROCCA	<b>Art Unit</b> 3616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 14 March 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 15-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 15-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>3/14/06</u>   | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 15-27 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. With respect to claim 15 and claims 16-27 which are dependent thereof, the recitation "in any event" as part of the phrase "in any event controlling the air flow L into the second air flow interval I.sub.2 when the air flow L lies outside the second air flow interval I.sub.2 before control" in claim 15 renders the claims indefinite and unclear. It is not clear how this happens "in any event" because this does not appear to occur or be possible when the vehicle is shut off (as understood the phrase "in any event" means this step always occurs meaning it is claimed to happen at all times). Moreover, with respect to the recitation of "before control" in line 17 and line 20 it is unclear how the method steps are carried out based on the fact that the lack of clarity of the "in any event" language also makes it unclear what the claimed "specific predetermined conditions" are. It is suggested that applicant more clearly recite the steps and what requires them to occur and when they actually do occur, so as to amend the claim, such that it complies with 35 U.S.C. 112, second paragraph. It is the examiner's understanding that the applicant is attempting to claim a control unit that first puts the airflow into an outer interval (but not into a second inner interval) when the vehicle and/or suspension system is activated and then upon some delay period after

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the activation wherein during said delay period no control takes place, after this delay a precondition subsequently occurs that then triggers the controller to apply an additional second control step wherein the air flow is put into a second interval lying inside the broader first interval. Nevertheless, the claim as drafted is still unclear and it is indefinite as to what is being recited, accordingly, appropriate correction is required.

As regards to these above claims currently rejected under 35 USC §112, second paragraph, please note that rejections under 35 USC §102 and 103 should not be based upon considerable speculation as to the meaning of the terms employed and assumptions as to the scope of the claims, when the claims are not definite. See, In re Steele, 305 F.2d 859, 862, 134 USPQ 292, 295 (CCPA 1962). When no reasonably definite meaning can be ascribed to certain terms in a claim, the subject matter does not become anticipated or obvious, but rather the claim becomes indefinite. See, In re Wilson, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970). As such the currently pending claims may be subject to additional prior art rejections not set forth herein upon the clarification of the claim language, in the event that they are clarified in such a manner that they read on the prior art and/or are rendered obvious by said prior art.

***Claim Rejections - 35 USC § 112 / Specification***

3. Claims 15-28 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention or alternatively, the specification / disclosure is objected to because of the following informalities: In comparing the claims to the specification various element numbers are used inconsistently. For example throughout

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the claims element 18 is cited parenthetically as being an accumulator; however, this is directly inconsistent with the specification which calls element 18 a controllable directional valve and instead refers to element 4 as an accumulator. The applicant must amend the claims or alternatively the drawings and specification such that there is consistency between the claims and disclosure (also no new matter should be added). Appropriate correction is required. As the claim is currently drafted what is being claimed is unclear and indefinite and alternately, there is also a lack of clear antecedent basis in the specification for the claim language based on the inconsistency.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claim 28 is rejected under 35 U.S.C. 102(b) as being anticipated by Oldenettel (U.S. Pub. App. 2002/0166321 A1).

Oldenettel discloses a level control system for a motor vehicle, comprising the following components:

a compressor (6),

a compressed air accumulator (4) which can be filled with air from the atmosphere and can be emptied into the atmosphere,

at least one pneumatic spring (2a, . . . , 2d), the pneumatic spring (2a, . . . , 2d) being connected to the compressed air accumulator (18) via the

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compressor (6) in such a way that compressed air can be transferred out of the pneumatic spring (2a, . . . , 2d) into the compressed air accumulator (4) and in the opposite direction,

a control unit (controlling means discussed in Para. 0023 for controlling air being filled from atmosphere and/or discharged into atmosphere) which carries out a control of the air flow L in the level control system in such a way that the air flow L is located within specific limits, wherein the system is capable of predetermining two air flow intervals I.sub.1, I.sub.2 in the control unit (Figure 2 and Para. 0023-0048, wherein the second interval is the area of the graph where air needs to be discharged to the atmosphere or taken in from the atmosphere and the second interval is the one more near the center of the graph where the preceding does not need to occur -- See in particular Pg. 4, Para. 0041-0043), the first air flow interval I.sub.1 lying within the second air flow interval I.sub.2, and the first air flow interval I.sub.1 having a first upper limit O.sub.1 and a first lower limit U.sub.1 and the second air flow interval I.sub.2 a second upper limit O.sub.2 and a second lower limit U.sub.2.

### ***Conclusion***

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOSEPH ROCCA whose telephone number is (571)272-5191. The examiner can normally be reached on 8:30 AM to 5:00 PM, Monday through Friday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Q. Nguyen can be reached on 571-272-6952. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/John Q. Nguyen/  
Supervisory Patent Examiner, Art Unit 3616

/Joseph Rocca/  
Examiner, Art Unit 3616